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ABSTRACT

This pamphlet explains the legal rights of women in the state of Washington. Women's rights are included under Title IX of the Education Amendments of 1972. Title IX prohibits federal financial assistance to any educational institution which practices sex discrimination. Title VII of the 1964 Civil Rights Act as amended by the Equal Employment Opportunity Act of 1972 prohibits discrimination in employment because of sex, race, color, national origin or religion. The state Equal Rights Amendment in Washington prohibits the denial of rights because of sex. Affirmative action rulings and other rulings deal with issues which affect women such as maternity leave, and the Washington State Law against discrimination. Agencies which assist women when they are denied their rights are: The Equal Employment Opportunity Commission, the Washington State Human Rights Commission, the Education Branch of the Office of Civil Rights, the Washington State Women's Council, the Washington Education Association and the Washington Federation of Teachers, The National Organization of Women, and the Washington State Human Rights Commission. Private attorneys also provide assistance. (Author/AM)

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# What are your rights?

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TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC) AND USERS OF THE ERIC SYSTEM."

*This pamphlet is to inform you of your rights as women under the law. Included is a list of agencies which can assist you when you feel you are being denied these rights.*

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### Title IX of the Education Amendments of 1972

This act specifically prohibits any educational institution (college, university, professional school, secondary school, vocational school or elementary school) receiving federal financial assistance from denying you entrance, participation or benefits of programs or activities because of your sex. The law does not require a school to grant preferential treatment to women because of previous imbalance, but it does not prohibit a school from adopting a program to correct imbalances in the male-female ratio.

### Title VII of the 1964 Civil Rights Act as amended by the Equal Employment Opportunity Act of 1972

This act prohibits discrimination in employment because of sex, race, color, national origin or religion. Under Title VII, employers are prevented from discriminating against women in recruiting, advertising, promoting, hiring, determining salary schedules or firing. It also prohibits discrimination in terms and conditions of employment.

Sex cannot be used as a condition of employment, unless the employer can prove that a specific sex is necessary to carry out the job. In other words, sex must be a bona fide occupational qualification for the job in question.

The burden is on the employer to show that sex is a bona fide occupational requirement, and there are very few instances where an employer's claim of a bona fide occupational requirement has been upheld by the courts or by the Equal Employment Opportunity Commission (EEOC).

### HJR 61 — State Equal Rights Amendment

The Equal Rights Amendment (ERA) amends the state constitution to grant full constitutional protection to women. It prohibits the denial of rights because of sex. When women (or men) feel their constitutional rights are being abridged because of their sex, they may institute a court action making such an allegation.



### Chapters 392-190 and 392-200 WAC

This state statute (enacted June 3, 1975 and effective September 8, 1975) prohibits sex discrimination in public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings and in textbooks and instructional materials used by students.

All school districts must develop affirmative action programs pursuant to this legislation. Responsibility for enforcement resides with the Superintendent of Public Instruction. Penalties for noncompliance may include the termination of all state apportionment to the offending school district.

Timelines for the development and filing of school district employment affirmative action plans have been established by Bulletins 86-74 and 9-75, issued by the Superintendent of Public Instruction.

### Affirmative Action

There are two executive orders on affirmative action which could affect you. They are:

(1) Executive Order 11246 by Kennedy and 11375 by Johnson. Any agency, public or private (excluding federal agencies), which receives contracts from the federal government will not discriminate on the basis of race, national origin or sex.

Order No. 4 (now called Revised Order No. 4) is an implementation order issued by the Department of Labor telling employers (contractors) *how* to meet their obligations under Executive Orders. Revised Order No. 4 delineates affirmative action requirements and requires employers to develop goals and timetables for the hiring of women and minorities. It was revised in 1972 to include women, therefore is called Revised Order No. 4.

These rulings, except for their precedent and moral principle, have little impact on school districts since school districts do not receive federal contracts. Grants are not affected by the order. However, all colleges and universities in the state do receive contracts and are directly affected.

(2) Executive Order 72-07 by Governor Evans. This order directs all state agencies to engage in affirmative action for minorities, women, the handicapped and the aged. It requires separate goals for each category.

**In addition, Chapter 392-200 WAC requires that all school districts develop and implement affirmative action in employment programs. (See previous page for description of the state statute.)**

## Laws which affect you

### Maternity Leave (WAC 162-30-020)

(Administrative Order by the Washington State Human Rights Commission, effective July 22, 1972.)

This order represents the commission's interpretation of the law against discrimination as it relates to women, and more specifically, the issues of pregnancy, childbirth and related illness. As an administrative order, it does not have the force of law, although it is expected that state courts would give weight to it since it represents the Human Rights Commission's interpretation of the law.

It also tells employers and complaining parties what the commission's position will be when it investigates complaints of this nature.

Absence from work because of pregnancy is to be treated as a sickness or temporary disability. You are entitled to use your accrued sick leave during the period of childbirth and for a reasonable length of time thereafter (60 days, unless additional time is necessary for nursing or physical complications, or unless an employer has his own policy). You can then return to your job under the same uniform terms and conditions granted any other employee on temporary disability or sickness in the institution, agency or company.

If you do not have accrued sick leave, you must be granted a leave of absence for a reasonable length of time with the right to return to your job under the same terms and conditions as any other employee, consistent with company policy on temporary disability.



This WAC also forbids discrimination in hiring because of pregnancy unless pregnancy would prevent you from doing the job. The burden of proof is on the employer that pregnancy would hamper job performance.

### RCW 49.60.180, Washington State Law Against Discrimination

This law declares it to be an unfair practice to discriminate in employment because of sex, race, national origin, religion, age, physical or mental handicap and marital status.

## Agencies to assist you

### Equal Employment Opportunity Commission (EEOC)

The EEOC is empowered to investigate charges of discrimination in employment. Once a complaint has been filed under your name at EEOC, the law forbids any type of retaliation against you. If retaliation does occur, report it immediately to EEOC.

Complaints may be filed by anyone with standing (an employee or applicant for employment) either personally or through representation. EEOC seeks to arbitrate disputes but has the authority to go to court to seek a remedy.

Contact EEOC at 414 Olive Way, Seattle 98101. Telephone: (206) 442-0968. Your complaint should be in writing, requesting an investigation.

### Washington State Human Rights Commission (HRC)

The HRC was established in Washington originally to deal with problems related to racial discrimination. Its charge has since been expanded to deal also with sex discrimination.

HRC is empowered to investigate complaints in all areas of public accommodations, including schools, and in the area of employment.

The commission maintains seven offices — Olympia, Seattle, Tacoma, Pasco, Yakima, Spokane and Vancouver. Field representatives are available in each of these offices to assist you.

If you believe you have been discriminated against, you should contact the nearest field office and explain the situation. Follow this with a detailed written explanation and request a HRC investigation. Your complaint will be

processed, and the field representative will investigate.

The commission attempts to arbitrate disagreements by making a mutually agreeable settlement between the parties. If they are unsuccessful in reaching a settlement, a hearing tribunal can be called. If the tribunal can't negotiate a satisfactory settlement, then — at the direction of the HRC -- legal action can be initiated on the commission's behalf.

**Education Branch,**
**Office of Civil Rights (OCR)**

The OCR Education Branch is empowered by federal statute to enforce Title IX of the Education Amendments of 1972 (see page 1).

OCR staff members are based in regional offices. Washington is in Region 10, headquartered at 1321 Second Avenue, Seattle 98101. Telephone: (206) 442-7483. There are both higher education and elementary/secondary sections.

In the area of employment, their jurisdiction covers teaching staff, support staff (both certificated and non-certificated), students and applicants for admission. They also have jurisdiction over anyone denied benefits or services on the basis of sex.

If you believe you have been discriminated against by an organization or institution which utilizes federal money, you should contact — in writing — the Regional Civil Rights Director at the OCR office above and request an investigation.

If your complaint involves a public school, your case will be referred to the elementary/secondary education branch and investigated. OCR staff empowered to enforce Title IX will attempt to arbitrate a settlement for you. This can sometimes lead to a settlement not only of your particular suit but also settlements of a class action nature which would affect everyone in your situation in a given institution.

OCR staff also enforce the federal executive orders mentioned previously in the area of higher education.

Title IX staff people do attempt to conciliate. They do have the authority to request a withholding of federal funds from an institution which refuses to comply with the arbitration procedure. However, this is a lengthy and complicated process which requires administrative approval in Washington, D.C.

**Washington State Women's Council**

The Washington State Women's Council was established to serve as a lobbying, information center and advocate for women in the state. The council has no investigatory or legal authority, but when you have a problem they will refer you to the appropriate agency or person for help. The council is housed in the Insurance Building, Capitol Campus, Olympia 98504. Mary Helen Roberts is executive director. Telephone: (206) 753-2870.

**Washington Education Association (WEA), Washington Federation of Teachers (WFT)**

If you are a member of either WEA or WFT, you should expect them to act in your behalf in any areas of employment discrimination. Both of these associations maintain offices in Seattle and Tacoma. Contact your local president when seeking help from either organization.

**National Organization of Women (NOW)**

NOW is a good source of information and referral if you have a complaint or a problem or believe you need advice. There are many county chapters of NOW.

NOW will file complaints in behalf of persons who can't file complaints personally. NOW

also has a policy of filing complaints on behalf of all women as a class and gives reliable advice regarding settlements.

### Washington State Human Rights Commission

Seattle, Tacoma and Spokane have local Human Rights Commissions empowered to investigate cases of discrimination because of race or sex in places of public accommodation, in local governments and in employment. In Seattle, all complaints of sex discrimination are investigated by the Office of Women Rights, Department of Human Resources, City of Seattle.

These local commissions are primarily arbiters and will attempt to settle a case between you and your employer.

### Private Attorneys

When your case needs to be settled quickly or when damages are involved or when your institution is not specifically affected by the federal law (Title IX), your best recourse may be to hire your own attorney.

You may file two kinds of suits: (1) a personal damage suit which will affect only your situation, or (2) a class action suit, the results of which will affect all persons in a similar situation in your institution.

A private attorney can be expensive, but there are some organizations which are established to provide you with legal services if you can't afford an attorney.

They are:

1. The American Civil Liberties Union (listed in most local telephone directories).
2. Washington Legal Services — for low income persons only (listed in local telephone directories under county government).
3. NOW Legal Defense in Education Fund. (Call your local NOW chapter in order to contact the NOW national office which determines which cases may receive assistance.)
4. Your county prosecutor or the Office of the Attorney General. Temple of Justice. Olympia 98504.

When your institution is violating a state law, a county prosecutor or the Office of the Attorney General may be interested in pursuing your case. Generally, discrimination cases are referred to the Human Rights Commission, in which case neither the county prosecutor nor the attorney general's office is involved.



*A word of advice . . . When filing a complaint, no matter what specific action you decide to take, be sure to send a copy of your complaint to the Equal Employment Opportunity Commission (EEOC), 414 Olive Way, Seattle 98101. This, in many cases, could be your only protection against retaliatory action by the institution against which you are filing the complaint. When a complaint is on file with EEOC, it's illegal for an employer subsequently to fire, demote or harass you.*

### Protecting the Rights of Women and Girls in Education

It is important that you as a woman actively pursue the rights granted to you under the law so that the discrimination which has been traditional in our society can cease.

Young women now in school should not have to suffer the discrimination which has frustrated and discouraged the working success of so many older women.

It's important also to recognize that any aggressive pursuit of your rights carries with it a certain amount of risk. Our society does not change easily.

Thus, women as a group need to assist and support each other, not only in combating discrimination on the basis of sex but also in seeking through legal channels to obtain their legal rights.

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